




# Bombay Government Gazette.

Published by Authority.

WEDNESDAY, 10<sup>TH</sup> MARCH 1875.

 *Separate paging is given to this part, in order that it may be filed as a separate compilation.*

## PART V.

### PROCEEDINGS OF THE LEGISLATIVE DEPARTMENT, BOMBAY.

The following Extract from the Proceedings of the Governor of Bombay, in the Legislative Department, is published for general information :—

*Abstract of the Proceedings of the Council of the Governor of Bombay, assembled for the purpose of making Laws and Regulations, under the provisions of "THE INDIAN COUNCIL'S ACT, 1861."*

The Council met at Bombay on Thursday, the 28th January 1875, at noon.

#### PRESENT:

His Excellency the Honourable Sir PHILIP EDMOND WODEHOUSE, K.C.B., Governor of Bombay, *presiding*.

The Honourable A. ROGERS.

The Honourable J. GIBBS.

The Honourable Colonel M. K. KENNEDY.

The Honourable J. K. BYTHELL.

The Honourable Colonel W. C. ANDERSON.

The Honourable F. S. CHAPMAN.

The Honourable Rao Sahib VISHVANATH NARAYEN MANDLIK.

The Honourable NACODA MAHOMED ALI ROGAY.

The Honourable Khan Bahadoor PADAMJI PESTONJI.

The letter from the Secretary to the Government of India, conveying the assent of  
Papers presented to Council. His Excellency the Viceroy and Governor General to the  
Bombay Jails Bill, was presented to the Council.

The Council then proceeded with the Bills and orders of the day.

BILL No. 1 OF 1875.—THE BOMBAY REVENUE OFFICERS AND LAND REVENUE CODE BILL.

The Honourable Mr. CHAPMAN, in introducing the Bombay Revenue Officers and Land Revenue Code Bill, said,—In the first place, I wish to

Mr. Chapman moves that Bill No. 1 of 1875, the Revenue Officers and Land Revenue Code Bill be read a first time.

the land revenue administration of this Presidency and re-enact them in the shape of a comprehensive, complete, and intelligible Code. This, then, was the origin of the measure. After the work had been commenced, I thought it would be a great pity not to embody such improvements and alterations in the substantive law, as the experience of past years had shown to be necessary. I was conscious that I had neither the ability nor leisure requisite for the task of codification ; and I induced my friend Mr. Naylor, who is at present conducting the duties of Legal Remembrancer, to undertake the work.

The Bill meant to be a codification of former Regulations and Acts relating to land revenue administration in the Bombay Presidency.

The work of codification performed by Mr. Naylor, C.S., and opinions asked upon the draft from officials concerned.

I wish, therefore, it should be known that he is the real author of the Code, and entitled to the full credit of the labour and research that have been expended on its preparation. I will now explain the course that has been followed. Honourable members have been in possession for some months past of the first draft, and will have been able to judge for themselves of the care and accuracy with which Mr. Naylor, so to speak, rough-hewed it. In order that there might be no risk of any portion of the existing law being omitted, he adopted what, in book-keeping language, is known as the system of "double entry." That is to say, he made in the first instance a complete list or catalogue of the substance of each section of every existing Regulation or Act, and then proceeded to account for the way in which its provisions had been dealt with in the Draft Code, and to specify the corresponding sections. The original draft having been prepared in this careful and laborious manner, copies were circulated to the most experienced and able officers in both branches of the service, with a circular letter which I will now read to the Council :—

"I have the honour to forward, for the favour of your opinion and any amendments you may think fit to suggest, a draft of a Revenue Code for this Presidency.

"2. The existing revenue laws are, as you are aware, only to be found scattered through the Acts and Regulations of the last fifty years in detached portions, and in consequence have not that intimate connection one with the other which is necessary to prevent inconsistencies and to ensure a sound revenue administration upon fixed recognized principles. The accompanying draft, which has been prepared by Mr. J. R. Naylor, C.S., has been accepted as the frame work upon which, it is hoped, after full consideration, a complete and satisfactory Revenue Code may be based, but Government do not at this stage wish it to be understood that they adopt all or any of the changes or modifications of the existing law suggested therein.

"3. The first and principal object to be attained in framing the proposed Code is to consolidate all the *general* revenue laws now in force, and your attention is in the first place particularly requested to this object with a view of ascertaining whether anything has been omitted that ought to have been included.

"4. In the next place, Government will be pleased to receive any suggestions with a view of simplifying the arrangement of the Code, and of rendering it, if possible, clearer for facility of reference.

"5. It will then be desirable to have the opinions of those most conversant with the different branches of the revenue law as to the completeness and suitability of the proposed provisions of the Draft Code with reference to those various branches, and with this view you are requested to follow up the sections thereof which deal with any subject with which you are most familiar, and to point out any shortcomings or errors of wording, or of principle, which you may detect, and to suggest any alterations or improvements in either respect which may occur to you.

"6. Such subjects as the following commend themselves most particularly for notice :—

- I. The sufficiency of the powers of Revenue Officers of the different grades.
- II. The completeness of provisions as to the punishment and dismissal of subordinate officers.
- III. The sufficiency of the provisions as to sureties.
- IV. The thoroughness of the rules with regard to the survey and assessment of culturable lands, and of lands within the sites of towns, villages and cities respectively.
- V. The adaptability of the provisions as to assessment, and as to the rights and liabilities of holders generally to all the varieties of existing tenures.
- VI. The sufficiency of the proposed new enactments or re-enactments for the settlement of all possible claims to exemption or limitation of any kind in respect of the amount of land revenue payable by any class of holders.
- VII. The suitability and sufficiency of the provisions as to (1) the realization of revenue demands, (2) the procedure of Revenue Officers, and (3) appeals and revision."

By this means we received from time to time very valuable suggestions and criticisms, and we had besides the advantage of personally consulting the survey and other officers during the rains at Poona. After all the suggestions thus obtained had been duly considered, I got my friend the Honourable Mr. Justice West to give us his assistance; and I wish to take this opportunity of gratefully acknowledging the valuable aid rendered by him. We owe it to Mr. West that the definitions have been expressed with so much perspicuity and precision; and that the language and arrangement of the subsequent sections have been kept in harmony with those definitions. He has besides been the author of several useful amendments of a substantive character which have suggested themselves to him from his experience as a judge, and from his intimate acquaintance with the decisions of the courts on various points connected with revenue administration. This, then, is a brief account of the manner in which the Bill has been prepared. I am not presumptuous enough to say that some slips may not yet be discovered; but I do say that no pains have been spared to render it as complete as possible, and I venture to think that the work of the Select Committee has, in a great measure, been forestalled. I propose, while I put out the main and principal alterations that have been made in the existing Bill, to jarding the propriety and expediency of which the class of persons there will, I hope, be but little room for dispute. Chapters I. and II. and IV. and V. call for no remarks. They merely contain the substance of the provisions of the existing law re-arranged and expressed in a greater degree of perspicuity and accuracy, and amplified where necessary. Chapter III. contains *verbatim* the provisions of the Wuttun Bill, which has so recently passed through this Council, after so much laborious consideration. Chapter VI., besides containing emendations of a minor character, which experience has shown to be necessary, contains several entirely new sections which I will here explain. Provisions for the protection of the Government forests appear here for the first time. Looking to the magnitude of the public interests, both economic and financial, which this important and growing department represents, I don't think exception can reasonably be taken to the moderate extent to which we propose to provide for their protection. Section 116 authorizes the Government in certain districts to require that all timber in transit should be covered by a pass, and to prescribe the route by which it shall be taken. This power seems to me absolutely necessary in forest districts, where the property of inamdars is so mixed up with that of Government, and where a man can now without fear of contradiction answer when questioned (if indeed he condescends to answer at all) that the timber he is carrying, and which has probably been stolen from a Government reserve, has been obtained from an imaginary inamdar. It will be observed that the section does only apply to persons transporting timber beyond the limits of the village in which it was produced, and will not affect that required for the domestic use of the villagers themselves; and further that the power is not to be indiscriminately exercised all over the country, but only at certain specified localities. The next section to which I would ask attention is No. 117, for the protection of road-side trees. I confess to being

The contents of the Bill generally described. Forests are to be protected more than at present.

Pro public interests to be protected in the transport of timber.

amplified where necessary. Chapter III. contains *verbatim* the provisions of the Wuttun Bill, which has so recently passed through this Council, after so much laborious consideration. Chapter VI., besides containing emendations of a minor character, which experience has shown to be necessary, contains several entirely new sections which I will here explain. Provisions for the protection of the Government forests appear here for the first time. Looking to the magnitude of the public interests, both economic and financial, which this important and growing department represents, I don't think exception can reasonably be taken to the moderate extent to which we propose to provide for their protection. Section 116 authorizes the Government in certain districts to require that all timber in transit should be covered by a pass, and to prescribe the route by which it shall be taken. This power seems to me absolutely necessary in forest districts, where the property of inamdars is so mixed up with that of Government, and where a man can now without fear of contradiction answer when questioned (if indeed he condescends to answer at all) that the timber he is carrying, and which has probably been stolen from a Government reserve, has been obtained from an imaginary inamdar. It will be observed that the section does only apply to persons transporting timber beyond the limits of the village in which it was produced, and will not affect that required for the domestic use of the villagers themselves; and further that the power is not to be indiscriminately exercised all over the country, but only at certain specified localities. The next section to which I would ask attention is No. 117, for the protection of road-side trees. I confess to being

an enthusiast on this subject, and I believe that next to providing a good water-supply, few benefits of a really more simple and practical character can be conferred on the country than by planting avenues of trees. A great deal of attention has been given to this subject of late years, and a great deal of public money is now annually expended on this description of planting. I think, therefore, it is well to take this opportunity of recognizing the public rights in these trees. The next provision in Chapter VI. to which I beg to draw attention is that contained in Section 134. There is no part of the Code on which greater attention has been bestowed than this, and I am happy to be authorized to inform the Council that the principle embodied in this section meets with the approval of the Honourable the Chief Justice and the Honourable Justices West and Nanabhai, with whom I have had the advantage of consulting. It is not my intention to trouble the Council with a disquisition on the law of landlord and tenant. My own opinion is that we in this Presidency may be congratulated on having hitherto escaped precise legislation for the regulation of the varied and complex relations between these classes. While, however, I should be very averse to any attempt at making precise and definite laws as to the rights and privileges of particular classes of tenants, which questions I am very decidedly of opinion had better be left to the courts to determine on their merits, and, according to the common law and custom of the country, I hold nevertheless that a Code of this character would be incomplete without a broad general

Section 134 proposes to draw a distinction between ancient tenants, who have a certain hereditary right to the sale, and tenants-at-will, who may be treated regarding their occupancy as seems fit to the landlord.

recognition of the difference between the ancient cultivators of the soil, known as Wuttunee Kools in the Konkan and Kadeem ryots in the Deccan; and ordinary tenants in the modern acceptation of the term. The principle we have endeavoured to enunciate is this, that when either an inferior holder or tenant has been in occupation of the land before, for example, the grant of a village in inam, his status in respect to proprietary rights only is not to be affected by the fact that the village has passed from the hands of Government into those of the aliens. And further that when owing to lapse of years there is no evidence to show how an ordinary tenant first obtained possession, then the period of duration of the tenancy may be presumed to be co-extensive with the duration of the tenure of the landlord. It must not be forgotten that this presumption is not to override a contract or usage at variance with it. I believe legislation to this limited extent will be of much value in protecting those whose status is far different from that of the ordinary tenant in the English sense of the term, and that it will be in conformity with usage and native opinion. It is only a short time ago, when, in consequence of the great excitement in the cotton trade, land in Dharwar became very valuable; holders were turned out of their properties right and left. I think it is necessary, however, the recurrence of such hardships should be prevented. Since the Bill has been published, I have had the opinion of the Chief Justice that he considers "shall be presumed," might advantageously be substituted for "may be presumed," as he considers greater uniformity of decision will be thereby secured. He further considers that instead of the words, "and there is not any such evidence of the period of its duration," the words "and there is not any such evidence of the period of its intended duration" might be substituted. The suggestions of so eminent an authority will no doubt be attended to by the Select Committee. I wish further to explain that the Chief Justice does not wish to be understood as expressing any opinion on the rest of the Code as he has not had sufficient time at his command to study them. I do not think it necessary to dwell on the other alterations contained in this chapter; they are all of a simple and practical character, and no doubt will be duly attended to hereafter by the Select Committee and the Council. I pass on to Chapter VII., which deals with the subject of claims to exemption from payment of land revenue. To a great extent, this chapter contains nothing more than the provisions of the existing laws, which provisions, in point of fact, have happily become obsolete, owing to these claims, which at one time were the cause of much disquietude, having been set at rest by the summary settlement. The only new part is that contained in Sections 162 to 179, which relates to

claims to uncultivated lands in villages, towns and cities. It will be observed that five years' occupation from the passing of this Bill will give a prescriptive title, and I imagine no objection can be taken to this on the score of want of liberality. An exception has been made in the case of villages not being kusba towns in Guzerat, but this is a point of detail which will be dealt with in the Select Committee. I do not think it necessary at this stage to trouble the Council with any remarks on Chapters VIII. and IX. They contain substantially the existing law regarding survey and boundary marks re-arranged and amended. Chapter X. contains the provisions for surveying and assessing lands in towns and villages. As already explained, five years' prescriptive enjoy-

Five years' occupation of uncultivated lands to give a prescriptive title to possession.

ment gives an exemption from taxation ; and I imagine there can be no doubt of the propriety of declaring the right of Government to land revenue where this liberal condition cannot be fulfilled. I would ask the attention of the Council to Section 211, which authorizes the levy of a survey fee in certain cases. The amount of this fee will be determined hereafter, but I think there can be no doubt that the holder should pay for the cost that will be incurred in surveying his property and giving him a plan and title-deed. It must be remembered that he will not be liable to assist in these operations in the same way that the occupants of agricultural fields are. Chapter XI. on Local Funds hardly calls for remarks. We have recognized the existence of Taluka Committees, and we have provided that the appointment of members of the Committee should be for a limited period, and by this means useless and indifferent men will be got rid of without difficulty. The law relating to the realization of land revenue will be found very precisely and carefully laid down

Means to secure Government being paid dues on the land before the payment of sowcars.

in Chapter XII. The new provision to which I beg to draw the special attention of the Council is that contained in Clause 1st of Section 224, by which the Collector is authorized to follow the crop into the hands of the person who has purchased it with the knowledge or means of knowledge that the current year's assessment on the land which has produced it has not been paid. This is intended to meet the case of the village Marwadees and money-lenders, who step in and deprive Government of what, by the usage of the country, is their prior lien. The remaining chapters refer to procedure. I venture to hope the course we have laid down will ensure the quasi-judicial functions of Revenue Officers being performed with more system and method than have hitherto been the case. The defect in our practice up to the present time, in my opinion, has been, that small and great matters have been liable to be dealt with in the same way, and that there has been no provision for the more important class of cases affecting individual rights being fully heard. It will be observed that under the arrangements we propose, we have laid down distinct rules as to the manner in which the different classes of cases are to be investigated and decided. Then, as to the important question of appeals, I am no advocate for curtailing the existing privileges ; but I do say that there should be some kind of limit placed upon the time within which parties feeling themselves aggrieved should apply for redress, and on this point we have followed the laws relating to civil appeals. Under the head of revision, the widest latitude is given to Government and supervising officers to examine at any time the proceedings of those subordinate to them and to modify or annul them whenever it may appear necessary to do so. With these safeguards I hope there is no fear of the humblest person being deprived of the right he has hitherto enjoyed of carrying his grievance to the highest authority in the land, while I feel confident that the system under which the executive officers of Government will be obliged to regulate their procedure in accordance with the importance of the class of business before them will be highly beneficial and will conduce to a higher sense of responsibility. With these remarks I beg to move that the Bill be read a first time and referred to a Select Committee for report. As I have already explained, we are in possession of the views and opinions of the best and most experienced officers of both branches of the service, and I hope the Committee will see their way to decide on the proposed changes of principle within a few weeks. I would suggest that a report to this extent be submitted, and that the Bill be then translated and circulated. In this way, I hope it may be read a second time and passed during the next Poona Sessions.

The Honourable Mr. ROGERS—In what the honourable mover of the first reading of the Bill has just said regarding Chapter VIII. on "revenue surveys and the assessment of lands and the partitions of estates," he omitted reference to a slight matter which I may now call attention to. By the old law, Survey Officers were enabled to fix the demands of a khote on his tenants at the time of the general survey of the district. According to Act I. of 1865 a tenant was "a person holding under an occupant or superior holder by a right derived from him and otherwise than by ownership or inheritance," and the Survey Officers accordingly proceeded to fix the rents in cash of all tenants. By Section 190 of this Bill, the Survey Officer's powers will be more clearly defined and he will be able to interfere only in fixing the demands of the khote on all inferior holders not being tenants by a right derived from him.

The Honourable Rao Sahib VISHVANATH MANDLIK—Your Excellency,—I did not intend to make any lengthy remarks upon the honourable member's motion ; but I think it necessary to make a few remarks on the principal points raised by the Bill, because of the

desire which has been expressed to dispose of it rapidly. I have not yet had time to examine the Bill carefully, or even to go through the whole of it, and compare it with the laws as they now stand. Some of the definitions will require to be very carefully looked into, and the whole must be deliberately considered; but at present I do not propose to say anything regarding the first five chapters. The third chapter—we have recently discussed in Poona, and Chapters 2, 4 and 5 substantially relate to official organization, the discussion on which will most properly take place in Select Committee, where (since we have been assured by those who are particularly concerned in the jurisdiction and duties referred to in the Bill that it has already been carefully examined) doubtless all the necessary modifications will be effected. But at Chapter VI. I think we come upon material for discussion of a very important character. I think that this Bill will entirely change the position of the

Rao Sahib Vishvanath Mandlik objects to Section 34 as an unnecessary interference between landlords and tenants.

landlords of this Presidency as compared with the position they occupied under Regulation XVII. of 1827. That regulation simply introduced rules regarding assessment and for the guidance of revenue officers in respect of the administration of land revenue. But the present Bill goes much

further. It seeks to enact in positive terms laws regarding a certain description of landlords, which, I apprehend, have now been proposed to be promulgated for the first time in India. Judging from the labour I have already had in going through the first draft of this Bill, I do say that the changes now sought to be introduced call for the most earnest and deliberate consideration. If the Select Committee, in the course of their deliberations, refer to the recent decisions of the Lords of the Privy Council on several Madras cases relating to the land law in that Presidency, they will probably come to the conclusion that it will be a matter for their most serious consideration how far positive enactments of the kind proposed in this measure can safely be made when there is no necessity for them. If I saw it was necessary to promulgate a new law, I would say, by all means do so; but there is a positive mischief done by making positive declarations when they are not needed. I am simply repeating the sentiments of the late Court of Directors when I urge that we ought to avoid making new laws unless we are convinced of some proved mischief existing in the body politic. In regard to forest rights, I think it will be found that the sections upon that subject contained in

The section as to forest rights will require improvement.

this Bill require considerable improvement. Forest rights differ all over this Presidency, and no definite law can be applied to them. I may take the liberty of saying that even

the decisions of the Secretary of State in regard to the forests of the three Presidencies, as published in the Blue-books up to 1871, must affect considerably the provisions sought to be passed in this Bill. I would ask that some considerable time be granted for the consideration of the propositions contained in this Bill, for it is impossible to understand its important bearings in a brief period such as is alluded to by the Honourable Mr. Chapman. Regarding roadside trees, I think that some distinction will have to be made between trees planted by private individuals in their own properties adjoining highways and trees which are *bonâ fide* roadside public trees. It must also be borne in mind that people in this country have been in the habit of planting roadside trees as an act of piety, and scores of miles of roads have been planted in this way, an instance of which is the old road between Satara and Poona. I shall now say a few words with regard to tenant right. I am at present preparing a summary of the whole law in India upon the subject as it has existed during the last seventy-five years, and I have not yet had time to complete my labours. I think, however, so far as I am able to judge at present, that the sections on the subject introduced in this Bill will effect a radical change in the position of land-owners, and unless the Select Committee are satisfied that such a change is required on general grounds, I trust they will see their way to specify the particular cases in reference to which such a positive enactment is required. At present it is made applicable to the whole of the tenantry in this Presidency—a state of matters which may induce a great deal of litigation just as the recent introduction of a similar section in the Punjab has been proved to cause more lawsuits than existed before. The distinction between ancient tenants and new tenants is one which is well known, but unfortunately I think it is one in regard to which more mistakes have been committed than in the case of any other vexed question I know of. Proprietary right, we are told under this section, is to be distinguished from a right to increase rents, but I think that provision requires modification, and I hope the Select Committee will make the necessary alterations in order to make the intentions of the sections unmistakable. At the same time I think the section will be found to be a useless innovation in view of some possible contingencies which this section may provoke, but which I cannot think will arise otherwise within the next fifty years. As to the illustration about the sale

of lands in Dharwar, a more unfortunate illustration could not have been given, and in my opinion it would have been quite as reasonable to cite the Bombay share mania as a standard of ordinary commercial enterprise in Bombay. In all excited periods, exceptional circumstances do occur, but as these do not represent the usual state of matters, it would be absurd to introduce general legislation because of those exceptional circumstances. In my opinion the sales of land at Dharwar was such an exceptional case, and therefore no legislation regarding the tenantry founded on that unusual solitary instance is requisite. In regard to the Summary Settlement Acts being embodied in this Code, I must say that I hope in Select Committee it will be found advisable not to incorporate those Inam Acts into this Code, but leave them aside altogether. It ought to be considered as a matter of principle to terminate these summary enquiries as quick as possible, and relieve the State from its connection with the Inam Acts. As has been done in Madras, the enquiry being completed, a sort of Inam enfranchisement Act should be passed as soon as possible so as to restore the status of those property-holders. Regarding surveys, the Statement of Objects and Reasons says that they were carried on under departmental orders up to 1865, when they required to be legalized by an express law. Now, I think it is erroneous to suppose that any special legislation was required in that year. What was ignored in that and previous years, was the fact that in this Presidency there existed, and do now exist, not one or two but many tenures. I take it that the original Survey Act was intended simply for one class of tenures, viz., those above the ghauts; and when the provisions of it were introduced into districts where different kinds of tenures prevailed, it is no wonder that they were found to be defective. The section to which the Honourable Mr. Rogers has drawn attention refers to one of these kinds of tenures and by no means a very important kind of tenure, considering that there are nearly eight districts in Gujarat and the Konkan in which tenures prevail different from those of the Deccan. I think that Section 190 will really require great attention and, possibly, some essential modifications. The Select Committee should also consider how far the local fund provisions should be worked in the case of Summary Settlement holdings. There have been two cases in Tanna where the levy of enhanced assessment has been resisted under the plea that the Summary Settlements made by the State were a settlement once for all. I think that that contention is to a certain extent well founded, but I should still hope that the original settlements will be taken for what they were intended; and that even if there is a small sacrifice of revenue involved, the first settlement will be made the final settlement, so that it may not be said there has been any breach of good faith as regards these original settlements. Our attention has been drawn to Section 224 regarding the land revenue. I entirely agree with that and the other corresponding sections. I do not object to what is proposed regarding appeals. In conclusion, I beg to state that if I have the honor to be placed upon the Select Committee, I shall do all I can to expedite their labours; but we must have ample time, and I repeat that the Select Committee cannot be too cautious as to how they deal with a measure of so much importance as the Bill now introduced.

The Honourable Mr. CHAPMAN, in reply to the Honourable Rao Sahib, pointed out that the Dharwar illustration was as fortunate as it well could be, because it revealed the presence of an evil which the Government was bound to correct. It was the duty of good statesmanship to provide for difficulties such as those which had arisen in the case of the Dharwar inamdars. It was easy to sail smoothly along on quiet seas, but responsible officers should nevertheless be prepared for bad weather; and this was the principle which ought to actuate the Honourable Members of Council in preparing a measure which would not only provide for the carrying out of ordinary revenue duties, but also secure justice to certain classes of people in such a crisis as that which had caused the recent speculations in land at Dharwar. It ought not to be forgotten that the land in the southern portion of the Presidency was being daily found to be a valuable marketable article, and it behoved the Government to see that in these interchanges of property there was no infringement upon the rights and privileges of the ancient cultivators of the soil.

His Excellency the PRESIDENT—Is not the declaratory enactment to have the effect of preventing Courts of Law from doing what they now do? This Bill is not merely a codification: it is evident that a change in the present law is contemplated.

The Honourable Mr. CHAPMAN—I say that at present, as far as I can understand, there is an absence of definite principle in the law regarding tenants, and the Judges of the High Court say that the declaration of principle to the limited extent proposed would be of great value in guiding the decisions of courts upon this subject.

The Bill, not only a codification pure and simple, but the embodiment of a new law.

The Honourable RAO SAHIB—I think that the effect of this new section will be to make substantially a new law. I am preparing a summary of decisions of the late Suddur Adawlut and the High Courts in other Presidencies, and I think that the result will prove that the law now sought to be introduced in this Bill is different to what has hitherto existed elsewhere in India.

The Honourable NACODA MAHOMED ALI ROGAY—Sir,—I had no intention to speak on the Bill at this stage; but after the remarks made by the Honourable Mr. Chapman, I feel it necessary to say a few words. The scope of the Bill now before the Council is of so extensive a character, that the law in force on the subject for nearly half a century has to be considered and digested to suit the altered circumstances of the various towns and villages throughout the Bombay Presidency. The land revenue of the Presidency is, I should think, one of the chief sources of the revenue derived by Government, and would therefore affect the interest of the great masses of the people of all classes and conditions, and legislation on such an important subject should not be carried out without patient and mature consideration. The Bill has been in the hands of members for not more than ten days, which time, though virtually sufficient according to the rules, is not practically so for the thorough consideration of such an important enactment. The list of Regulations and Acts repealed, as shown in Schedule A, is of so formidable a character as to frighten even a member conversant with law; how much more so would it be the case with those members who are not acquainted with the Regulations and Acts that have been in existence during a period of nearly half a century? I have, with all the time at my disposal, only been able to go hastily through the Bill, but I have not been able to compare its sections with the old Regulations and Acts proposed to be repealed according to Schedule A. I have, therefore, been unable to see whether there is really a necessity for introducing the present Bill. I believe there may be other members in the same predicament as myself. I should therefore propose that the first reading of the Bill be postponed for three months. In the meantime the Bill should be translated in the various languages of the Presidency, and wide publicity be given to it. Copies of the Bill, at the same time, should be sent to the principal Revenue Officers throughout the Presidency with instructions to give their own opinions on the subject, as well as of those affected by the Bill.

The Honourable Mr. BYTHELL did not think that any good would be obtained by translating and circulating the Bill before it had been referred to the Select Committee. He would therefore oppose the amendment.

His Excellency the PRESIDENT—As I understand the scope of the Bill, the first question of principle, which applies to the whole of it, is whether all the revenue laws of this Presidency shall be embodied in one Code. To that, I think, no one can object. The next question is this. As the Bill treats of a great variety of subjects in different chapters, are all of them fit subjects to be introduced into the Code? This must be a matter for the careful consideration of the Select Committee, who, having arrived at a conclusion as to what subjects should be retained in the Bill, will proceed to the examination of the chapters relating to them respectively. It seems to me also that it would facilitate the business of the Council, if the Committee could forward separate reports upon each important part of the Bill as completed. These reports with the chapters as amended could be translated and circulated for observations; and thus great progress might be made with the measure when the Council assembles at Poona. On this understanding the Honourable Member may perhaps be disposed to withdraw his proposal to defer the First Reading.

The Honourable Colonel ANDERSON—I wish to make a few remarks on the subject of the discussion which has now taken place regarding the position of landlords and tenants. There are two very different classes of each; first, landlords holding land directly under Government, and sub-letting those lands to other persons. These tenants frequently hold under written agreements, but often by some kind of understanding with their landlords. The question of regulating the relations of

Colonel Anderson explains the position existing between certain landlords and tenants, and points out the necessity for legislation in order to prevent the wrongful absorption of land by landlords.

this class is a large and complicated one, and I do not propose to go into it now. The second class of landlords and tenants are the inamdars of whole villages, and the people cultivating the lands of those villages. The inamdar was granted the right to receive the Government revenue which the cultivators would pay to him instead of into the Government treasury. He had also a full right to dispose at his pleasure of lands which were waste, at the time of the grant of the revenues of the village to him, but he had no right



whatever over the lands held by a cultivator so long as he paid his customary revenue. During the last twenty-five years land has been acquiring an ever-increasing value, and inamdars have all over the country, not in Dharwar only, been endeavouring to increase the revenue leviable from the cultivators, or to eject them from their lands, and to a great extent they have succeeded in doing so. In one case a decision was given by a Court of Law that the power to increase assessment by an inamdar was not in any way limited by the ancient kumal or standard assessment of the village, and that he was free to impose what assessment he pleased. No appeal, I believe, occurred in this case, though regarding the violation of equity and the custom of the country, there would appear to be no doubt. I was some ten years ago asked by the Collector of Dharwar to meet with him some inamdars and their tenants between whom a dispute regarding an increase of assessment had occurred. The inamdar had given notice to his ryots of his intention to levy an assessment very much in increase of that of the previous year, in fact, an excessive assessment. The inamdar made no secret of his object and intention. He said "if the ryot will pay me even ten rupees per acre this year, I will demand more next year. I don't in fact want his money at all. I want the land." Cultivators in inam villages have frequently rights far antecedent even to those of inamdars to receive the revenues from them, as Government would eject no ryot who paid the revenue due from him, which is, in fact, the sole condition on which he holds the land, so the inamdar, whose right is strictly confined to the right of receiving the Government revenues, can have no right to eject an ancient cultivator except under the same circumstances. A clear definition of the rights of each party in this case will be of immense benefit to a very large portion of the ryot population, for, on the average, it may be said, that at least one-tenth of the villages of the Deccan and Southern Maratha Country are held by inamdars. With reference to the question of the Select Committee, I would only observe that the Bill after revision by the Select Committee would go out before the public in a much more complete and final form than it previously could. We have already heard complaints that Bills are materially altered in Committee after first publication, and that the public had no opportunity of considering them in their revised form. Translation and publication after revision would obviate this complaint.

The Honourable Mr. GIBBS—Sir,—There can be no doubt that the principle adopted by the Government of India of codifying the law on different

Mr. Gibbs thinks that each part of the Bill should be separately reported upon, and the reports translated and published.

subjects is one which has caused considerable benefit to all concerned in knowing or carrying out the law. Therefore I think that, in determining to codify the revenue laws of this Presidency, the Honourable Mr. Chapman has followed

an excellent precedent, and I feel certain that if this Bill is passed, it will be a matter for gratification to all who are affected by the present fragmentary laws. With regard to the manner in which the Bill ought to be treated, I am inclined to agree with His Excellency the President. The subjects are so various and the Bill altogether so comprehensive, that I think it would be a matter of great difficulty for the Committee to prepare one report upon the whole Bill, and, moreover, to do so would require a very long time. If they reported upon each of the fifteen chapters of the Bill *seriatim*, I think business would be greatly facilitated. This is not a new law, although there are certain portions of it original; and there need be very little difficulty in dealing with the greater portion of the Bill. Each report might be published and translated. I see no necessity for hurrying on the Bill too rapidly; whether it is passed this monsoon or next monsoon is of less importance than having a full and thorough discussion of it both here and by the public press; and I therefore think that if His Excellency's suggestions and those I have thrown out were adopted, the Bill will be more likely to become a satisfactory law than if we adopted the ordinary course regarding it.

The Honourable Mr. CHAPMAN remarked that nine-tenths of the Bill related to purely departmental concerns, and did not affect the general public.

His Excellency the PRESIDENT—The Honourable Mr. Chapman's remark calls up prominently a difficulty which it will be necessary for the Select Committee to decide. As a portion of the Bill has,

The President doubts the advisability of making the Bill anything but a codification.

strictly speaking, nothing to do with a codification of revenue laws, and the newly-introduced matter is likely to

cause some discussion, it should be for the consideration of the Committee whether the Council ought not to make the measure strictly one of codification, leaving all foreign matter to be dealt with in other Bills.

The Honourable Mr. GIBBS and the Honourable Mr. CHAPMAN concurred in His Excellency's views.

The Honourable NACODA MAHOMED ALI ROGAY said that if the reports of the Select Committee were translated and circulated, he would have no objection to withdraw his amendment.

His Excellency the PRESIDENT said the other Members of Council would not object to this course.

Bill read a first time, and referred to a Select Committee. The amendment was then withdrawn, and the Honourable Mr. Chapman's motion, that the Bill be read a first time, agreed to.

The Bill was then referred to a Select Committee composed of the Honourable Messrs. Rogers, Gibbs, Chapman, Colonel Anderson, Rao Sahib Vishvanath Narayen Mandlik, Nacoda Mahomed Ali Rogay, and the Advocate General, with instructions to submit separate reports on the several subjects or chapters contained in the Bill, as soon as they may find themselves in a position to do so, with a view to their translation and publication.

His Excellency the PRESIDENT then adjourned the Council.

*By order of His Excellency the Governor in Council,*

JOHN NUGENT,

Acting Under Secretary to Government.

*Bombay Castle, 28th January 1875.*